

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 04-cv-11420

Mark Broadley

v.

Mashpee Neck Marina, Inc.,

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**CLERK'S CERTIFICATE**

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 10/5/05.

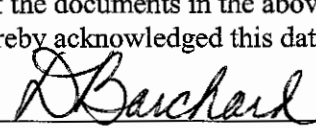
In testimony whereof, I hereunto set my hand and affix the seal of this Court on December 5, 2005.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 12/6/05.

  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:04-cv-11420-PBS**

Broadley v. Mashpee Neck Marina, Inc.  
Assigned to: Judge Patti B. Saris  
Cause: 28:1333 Admiralty

Date Filed: 06/22/2004  
Jury Demand: Both  
Nature of Suit: 340 Marine  
Jurisdiction: Federal Question

**Plaintiff**

**Mark Broadley**

represented by **Thomas M. Bond**  
The Kaplan/Bond Group  
88 Black Falcon Avenue  
Suite 301  
Boston, MA 02210  
617-261-0080  
Fax: 617-261-1558  
Email: tbond@kaplanbond.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Mashpee Neck Marina, Inc.**

represented by **John H. Bruno**  
Masi & Bruno  
124 Long Pond Road  
Plymouth, MA 02360  
508-747-5277  
Fax: 508-747-5433  
Email: JBruno@Allmerica.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Mediator**

**Magistrate Judge Charles B.  
Swartwood**  
*TERMINATED: 08/26/2005*

**Mediator**

**Marianne B. Bowler**  
*TERMINATED: 09/12/2005*

**Counter Claimant**

**Mashpee Neck Marina, Inc.**

V.

**Counter Defendant****Mark Bradley**

| Date Filed | #        | Docket Text  |
|------------|----------|--|
| 06/22/2004 | <u>1</u> | COMPLAINT Filing fee: \$ 150, receipt number 56818, filed by Mark Broadley.(Patch, Christine) (Entered: 06/24/2004)  |
| 06/22/2004 | <u>2</u> | Summons Issued as to Mashpee Neck Marina, Inc. (Patch, Christine) (Entered: 06/24/2004)  |
| 06/22/2004 | <u>3</u> | If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Collings. (Patch, Christine) (Entered: 06/24/2004)  |
| 07/26/2004 | <u>2</u> | MOTION to Dismiss for Lack of Jurisdiction by Mashpee Neck Marina, Inc..(Patch, Christine) (Entered: 07/29/2004)   |
| 07/26/2004 | <u>3</u> | MEMORANDUM in Support re <u>2</u> MOTION to Dismiss for Lack of Jurisdiction filed by Mashpee Neck Marina, Inc.. (Patch, Christine) (Entered: 07/29/2004)  |
| 08/02/2004 | <u>4</u> | SUMMONS Returned Executed Mashpee Neck Marina, Inc. served on 6/29/2004, answer due 7/19/2004. (Patch, Christine) (Entered: 08/09/2004)  |
| 08/05/2004 | <u>5</u> | Assented to MOTION for Extension of Time to File Response as to <u>2</u> MOTION to Dismiss for Lack of Jurisdiction by Mark Broadley.(Patch, Christine) (Entered: 08/12/2004)  |
| 08/13/2004 | <u>6</u> | Judge Patti B. Saris : Electronic ORDER entered granting <u>5</u> Motion for Extension of Time to File Response re <u>2</u> MOTION to Dismiss for Lack of Jurisdiction. Responses due by 8/23/2004. (Patch, Christine) (Entered: 08/16/2004)   |
| 08/16/2004 | <u>6</u> | Opposition re <u>2</u> MOTION to Dismiss for Lack of Jurisdiction filed by Mark Broadley. (Patch, Christine) (Entered: 08/23/2004)   |
| 08/26/2004 | <u>8</u> | MOTION for Leave to File Additional Papers by Mashpee Neck Marina, Inc..(Patch, Christine) (Entered: 08/30/2004)   |
| 08/27/2004 | <u>7</u> | Judge Patti B. Saris: ORDER entered REFERRING for Report and Recommendation <u>2</u> MOTION to Dismiss for Lack of Jurisdiction filed by Mashpee Neck Marina, Inc. to Magistrate Judge Robert B. Collings (Alba, Robert) (Entered: 08/27/2004) |
| 09/07/2004 | <u>8</u> | Judge Patti B. Saris : Electronic ORDER entered granting <u>8</u> Motion for Leave to File to File Additional Papers. (Patch, Christine) (Entered: 09/08/2004)   |
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| 09/07/2004 | <u>9</u>  | Memorandum in Support of Reply Memorandum to Opposition to re 2 MOTION to Dismiss for Lack of Jurisdiction filed by Mashpee Neck Marina, Inc.. (Patch, Christine) (Entered: 09/09/2004)   |
| 10/28/2004 | <u>10</u> | NOTICE of Change of Address by Thomas M. Bond (Patch, Christine) (Entered: 11/02/2004)  |
| 01/24/2005 | <u>11</u> | Judge Robert B. Collings : REPORT AND RECOMMENDATIONS re 2 MOTION to Dismiss for Lack of Jurisdiction filed by Mashpee Neck Marina, Inc., Recommendation: Motion to Dismiss be DENIED. Objections to R&R due by 2/7/2005.(Dolan, Kathleen) (Entered: 01/24/2005)              |
| 01/24/2005 |           | Case no longer referred to Magistrate Judge Robert B. Collings. (Dolan, Kathleen) (Entered: 01/24/2005)   |
| 01/28/2005 | <u>12</u> | OBJECTION to <u>11</u> Report and Recommendations filed by Mashpee Neck Marina, Inc.. (Patch, Christine) (Entered: 02/08/2005)  |
| 02/03/2005 | <u>13</u> | Assented to MOTION for Leave to File Amended Complaint by Mark Broadley. (Attachments: # <u>1</u> First Amended Complaint)(Patch, Christine) (Entered: 02/11/2005)  |
| 02/03/2005 | <u>14</u> | CERTIFICATE OF CONSULTATION re <u>13</u> MOTION for Leave to File Amended Complaint by Thomas M. Bond on behalf of Mark Broadley. (Patch, Christine) (Entered: 02/11/2005)  |
| 02/09/2005 |           | Judge Patti B. Saris : Electronic ORDER entered. ORDER ADOPTING REPORT AND RECOMMENDATIONS for <u>11</u> Report and Recommendations Action on motion: denied. "I adopt the report and recommendation and deny the motion to dismiss."(Patch, Christine) (Entered: 02/16/2005) |
| 02/10/2005 | <u>16</u> | CORPORATE DISCLOSURE STATEMENT by Mashpee Neck Marina, Inc.. (Patch, Christine) (Entered: 02/17/2005)   |
| 02/10/2005 | <u>17</u> | Initial disclosure by Mashpee Neck Marina, Inc..(Patch, Christine) (Entered: 02/17/2005)  |
| 02/11/2005 | <u>18</u> | ANSWER to Amended Complaint, COUNTERCLAIM against Mark Broadley by Mashpee Neck Marina, Inc..(Patch, Christine) (Entered: 02/17/2005)   |
| 02/14/2005 |           | Judge Patti B. Saris : Electronic ORDER entered granting <u>13</u> Motion for Leave to File Amended Complaint. (Patch, Christine) (Entered: 02/16/2005)   |
| 02/14/2005 | <u>15</u> | AMENDED COMPLAINT against Mashpee Neck Marina, Inc., filed by Mark Broadley.(Patch, Christine) (Entered: 02/16/2005)  |
| 02/18/2005 | <u>19</u> | Letter from Thomas M. Bond requesting that the Court schedule a Local Rule 16.1 conference. (Patch, Christine) (Entered: 02/23/2005)  |
| 02/18/2005 | <u>20</u> | NOTICE of Scheduling Conference Scheduling Conference set for 4/14/2005 04:00 PM in Courtroom 19 before Judge Patti B. Saris. (Patch,   |



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|            |           | Christine) (Entered: 02/24/2005)  |
| 02/23/2005 | <u>21</u> | Supplemental Inisital disclosure by Mashpee Neck Marina, Inc. Please note: Exhibit A too large to scan.(Patch, Christine) (Entered: 03/01/2005)   |
| 03/28/2005 | <u>22</u> | NOTICE OF RESCHEDULED SCHEDULING CONFERENCE. The Scheduling Conference previously scheduled for April 14, 2005, has been rescheduled to May 2, 2005, at 4:15 p.m. in Courtroom 19 before Judge Patti B. Saris. (Alba, Robert) (Entered: 03/28/2005)   |
| 05/02/2005 | <u>23</u> | JOINT SUBMISSION pursuant to Local Rule 16.1 by Mark Broadley. (Bond, Thomas) (Entered: 05/02/2005)   |
| 05/02/2005 | <u>24</u> | CERTIFICATION pursuant to Local Rule 16.1 (D)(3) by Mark Broadley.(Bond, Thomas) (Entered: 05/02/2005)  |
| 05/02/2005 |           | Electronic Clerk's Notes for proceedings held before Judge Patti B. Saris: Scheduling Conference held on 5/2/2005. Court refers parties to mediation. Scheduling Order to issue. (Alba, Robert) (Entered: 05/02/2005)   |
| 05/02/2005 | <u>25</u> | JOINT STATEMENT re scheduling conference. Re-entered by court staff to correct data entry error. (Patch, Christine) (Entered: 05/03/2005)   |
| 05/02/2005 | <u>26</u> | Judge Patti B. Saris : ORDER entered. REFERRING CASE to Alternative Dispute Resolution for Mediation: Summer, 2005.(Patch, Christine) (Entered: 05/10/2005)   |
| 05/02/2005 | <u>27</u> | Judge Patti B. Saris : ORDER entered. SCHEDULING ORDER: Fact Discovery due by 9/15/2005. Plaintiff's expert designation deadline: 10/14/05; defendant's expert designation deadline: 11/15/05. Expert discover deadline: 12/15/05. Summary Judgment Motion due by 6/1/2005; opposition due by 6/15/05. Hearing on Summary Judgment or Pretrial Conference set for 7/25/2005 02:00 PM in Courtroom 19 before Judge Patti B. Saris. Case to be referred to Mediation program: Summer, 2005.(Patch, Christine) (Entered: 05/10/2005) |
| 05/03/2005 |           | Documents terminated: <u>23</u> Joint submission filed by Mark Broadley,. (Patch, Christine) (Entered: 05/03/2005)  |
| 05/03/2005 |           | Notice of correction to docket made by Court staff. Correction: Document No. 23 terminated because it was filed using the wrong event. Please refer to Document No. 25 for corrected filing. (Patch, Christine) (Entered: 05/03/2005)   |
| 05/31/2005 | <u>28</u> | MOTION for Partial Summary Judgment by Mark Broadley. (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit)(Bond, Thomas) (Entered: 05/31/2005)  |
| 06/09/2005 | <u>29</u> | Opposition re <u>28</u> MOTION for Partial Summary Judgment filed by Mashpee Neck Marina, Inc.. (Bruno, John) (Entered: 06/09/2005)   |
| 06/09/2005 | <u>30</u> | MEMORANDUM in Opposition re <u>28</u> MOTION for Partial Summary Judgment filed by Mashpee Neck Marina, Inc.. (Bruno, John) (Entered: 06/09/2005)   |

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|            |      | 06/09/2005)  |
| 06/20/2005 | ●    | ELECTRONIC NOTICE of assignment to ADR Provider. Chief Magistrate Judge Charles B. Swartwood appointed as mediator. The Court will contact counsel about scheduling mediation.(Franklin, Yvonne) (Entered: 06/20/2005)   |
| 07/26/2005 | ● 31 | MOTION to Continue Summary Judgment Hearing to a date to be determined by the Court by Mark Broadley.(Bond, Thomas) (Entered: 07/26/2005)  |
| 07/27/2005 | ●    | Judge Patti B. Saris: Electronic ORDER entered allowing 31 MOTION to Continue Summary Judgment Hearing to a date to be determined by the Court by Mark Broadley. "ALLOWED. THE SUMMARY JUDGMENT HEARING IS CONTINUED TO AUGUST 17, 2005, AT 3:30 P.M." (Alba, Robert) (Entered: 07/27/2005)  |
| 08/17/2005 | ●    | Electronic Clerk's Notes for proceedings held before Judge Patti B. Saris: Motion Hearing held on 8/17/2005 re 28 MOTION for Partial Summary Judgment. Court hears argument of counsel. Court takes motion under advisement. Parties to supplement briefing by 9/17/05. Court orders parties to mediation A.S.A.P. Final Pretrial Conference set for 9/28/2005 at 2:00 PM in Courtroom 19 before Judge Patti B. Saris. Jury Trial set for 10/11/2005 at 9:00 AM in Courtroom 19 before Judge Patti B. Saris. (Court Reporter Valerie O'Hara.) (Alba, Robert) (Entered: 08/17/2005) |
| 08/26/2005 | ●    | Notice of assignment to ADR Provider. Magistrate Judge Marianne B. Bowler appointed. Chief Magistrate Judge Charles B. Swartwood no longer appointed.(Tyler, Rebecca) (Entered: 08/26/2005)  |
| 08/26/2005 | ●    | ELECTRONIC NOTICE of ADR Conference.Alternative Dispute Resolution Hearing set for 9/12/2005 at 10:00 AM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. All parties with settlement authority must be in attendance for the mediation. Leave of the Court is required for any exceptions. Confidential briefs are to be filed no later than two business days prior to the mediation.(Tyler, Rebecca) (Entered: 08/26/2005)   |
| 09/06/2005 | ● 32 | ADDENDUM re 28 MOTION for Partial Summary Judgment filed by Mashpee Neck Marina, Inc.. (Bruno, John) (Entered: 09/06/2005)   |
| 09/12/2005 | ● 33 | REPORT of Alternative Dispute Resolution Provider; Mediation was held on 9/12/2005; Case did not settle(Saccoccio, Dianalynn) Additional attachment(s) added on 9/14/2005 (Saccoccio, Dianalynn). (Entered: 09/14/2005)  |
| 09/16/2005 | ● 34 | Supplemental MEMORANDUM in Support re 28 MOTION for Partial Summary Judgment filed by Mark Broadley. (Bond, Thomas) (Entered: 09/16/2005)  |
| 09/27/2005 | ● 35 | PRETRIAL MEMORANDUM by Mark Broadley, Mashpee Neck Marina, Inc.. (Bond, Thomas) (Entered: 09/27/2005)  |
| 09/28/2005 | ●    | ElectronicClerk's Notes for proceedings held before Judge Patti B. Saris:  |

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|            |    | Final Pretrial Conference held on 9/28/2005. Court makes rulings on the record. Court to enter judgment in favor of the defendant. (Court Reporter Lee Marzilli.) (Alba, Robert) (Entered: 09/28/2005)   |
| 09/28/2005 | 36 | Judge Patti B. Saris : ORDER entered. MEMORANDUM AND ORDER. "The Court orders entry of judgment in favor of defendant. The Court allows both motions for summary judgment only to the extent stated herein."(Patch, Christine) (Entered: 09/29/2005)   |
| 09/28/2005 |    | Civil Case Terminated. (Patch, Christine) (Entered: 09/29/2005)  |
| 10/05/2005 | 37 | NOTICE OF APPEAL as to 36 Memorandum & ORDER, Terminate Motions by Mark Broadley. \$ 255 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 10/25/2005. (Bond, Thomas) (Entered: 10/05/2005) |
| 10/12/2005 |    | Filing fee: \$ 255, receipt number 67396 regarding Notice of Appeal (Patch, Christine) (Entered: 10/14/2005)   |
| 10/12/2005 | 38 | TRANSCRIPT ORDER FORM by Mark Broadley for proceedings held on 8/17/05 before Judge Saris.. (Attachments: # 1 Certificate of Service) (Patch, Christine) (Entered: 10/17/2005)   |